

Texas Citizen Action

In the Matter of

Truth-in-Billing

and

Billing Format

Comments of Texas Citizen Action
Post Office Box 10231
Austin, Texas 78756

C C Docket Number 98-170

Formal comments filed on 9. November 1998

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INTRODUCTION:

These comments are filed in response to the Federal Communications Commission's (FCC) Notice of Proposed Rule Making (NPRM) CC Docket 98-170: "Truth-in-Billing and Billing Format" on behalf of the 150,000 Texas households that financially support Texas Citizen Action (TCA), a 501(c) 4 nonprofit consumer advocacy organization.

First, we applaud the Commission's markedly broad focus on telecommunications *billing*, an activity the FCC has accurately described as an "integral part of the relationship between the carrier and end user," rather than exclusively proposing rule making on *unauthorized* billing, for example.¹ To its credit, the FCC has dispensed with the conundrum of which came first: the chicken or the egg and opted, instead, to reform the hen house. This broad approach by the FCC is both appropriate and proactive. TCA would contend that consumers will only be able to reap the benefits of telecommunications deregulation *if and when* they are routinely equipped with a non-deceptive articulation of telecom services and the costs of those services in a comprehensible, user-friendly format.²

Second, we applaud the FCC for not only articulating its strong desire to impede, if not, to defeat, those who would cram and slam, but for recognizing that the current state of "billing" has facilitated, if not directly encouraged, the enormous growth in the number of customers that

¹ Source: Federal Communications Commission, CC Docket 98-170. Paragraph 13. Referred to in the text and footnotes as the "FCC, CC Docket 98-170."

² Source: The Telecommunications Act of 1996, Pub. L. Number 104, 110 Stat 56 (1996). Referred to in the text as the "Telecom Act."

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have been victimized.³ Without the adoption of sweeping billing and formatting reforms, consumers will remain unable to discern legitimate services and their charges from fraudulent cramming and slamming. In order to protect themselves and their pocketbooks, consumers must be easily able to assess the accuracy of the services and charges that appear on their bills, confirming that they have received only the services they requested and are being billed accordingly.

TCA shares many of the concerns articulated by the FCC in the NRPM and offers the following comments organized by category.

I. ORGANIZATION OF BILLS:

Most Texas households have yet to discover the consumer utopia described as an inevitable consequence of the Telecom Act. Instead, the promised benefits- decreasing costs, increasing provider choice, and innovative technology introduction- have been supplanted by something far less favorable: continued price-gouging and increasing service costs in the absence of meaningful local market competition. And, for an ever-increasing number of Texans, fraud has been the notable consumer by-product of the post-Telecom era.

Telecommunications fraud is a growth industry in Texas. In September, 1997, the Public Utility Commission of Texas (PUC) received less than 100 complaints from consumers regarding the unauthorized billing of telecommunications services never requested or billed and not received ("cramming").⁴ By June, 1998, this number had increased dramatically with the PUC recording more than 600 cramming complaints from Texas households. (See attached: "Chart 1: Cramming Complaints.") As of September 1, 1998, one year after the implementation of the state's anti-slamming law, 9,500 incidences of slamming and 3,100 incidences of cramming were reported to the PUC.^{5 6}

The scope of the fraud perpetrated against Texas consumers by slammers and crammers has been ambitious. In the initial nine months of the state's anti-slamming legislation's application (September 1, 1997 through May 31, 1998), the PUC helped consumers recover nearly \$100,000 in refunds for slamming *alone* and approximately \$9,000 for cramming.⁷ In a questionnaire mailed to customers identified by the PUC, 40% of respondents reported that they were billed between one to three months for unauthorized charges, while more than half- 52%- were billed fraudulently for four months or more. More than 2 in 5 (44%) reported that they paid unauthorized charges between \$11 and \$50,

³ **Source:** See FCC, CC Docket 98-170, Paragraph 3: "unclear telephone bills also have contributed to the proliferation of cramming... entities that engage in cramming appear to rely heavily on customer confusion over telephone bills to mislead consumers into paying for services that were not authorized or received."

⁴ **Source:** "Presentation of the Public Utility Commission of Texas Cramming Survey Summary" on 28 October 1998 by Tamara Bell at the PUC public workshop on the proposed adoption of Substantive Rule 26.45: "Truth in Telecommunications Billing; Avoidance of Unauthorized Billing Charges (Cramming)"

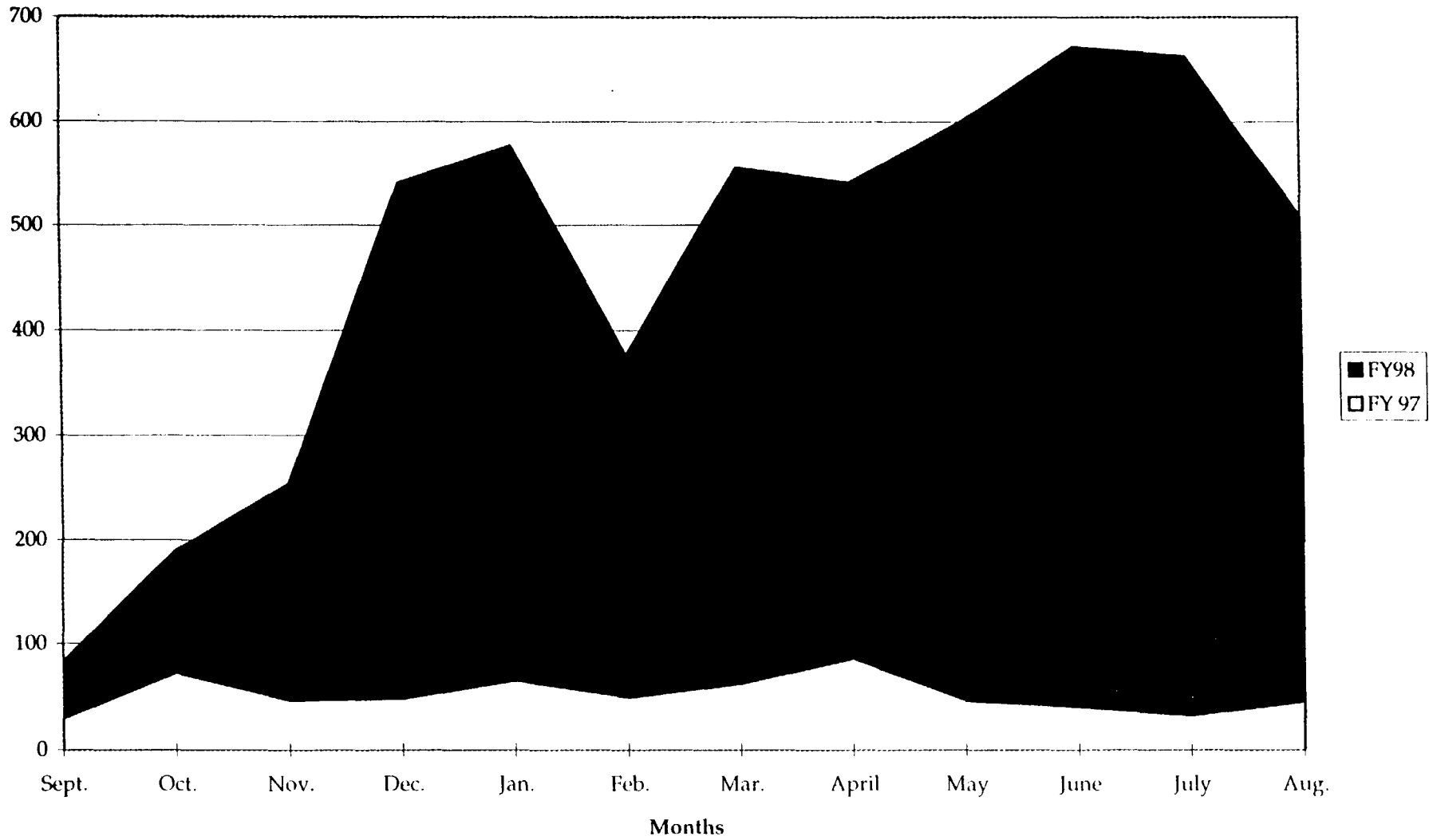
⁵ **Source:** P.U.C. Subst. R. Section 23.106.

⁶ **Source:** PUC. Summer, 1998. "Texans Get \$108,000 in Refunds from Slammers and Crammers." In *Public Utility Connection*, the PUC consumer newsletter (Volume I, Issue 2.) See also: PUC, *Public Utility Connection*. Fall, 1998. "It's Important Utilities Be Factually Correct." (Volume I, Issue 3.) Available on the PUC's website: [http:// www.puc.state.tx.us/OCP/connect/index.htm](http://www.puc.state.tx.us/OCP/connect/index.htm).

⁷ **Source:** PUC. Summer, 1998. "Texans Get \$108,000 in Refunds from Slammers and Crammers." See also: PUC. "It's Important Utilities Be Factually Correct."

Chart1

Cramming Complaints



PUBLIC UTILITY COMMISSION OF TEXAS CRAMMING SURVEY SUMMARY

The Public Utility Commission mailed a questionnaire to telecommunications customers the last week of July 1998. The questionnaires were mailed to 658 randomly selected customers in the agency's complaint database who had written to the Office of Customer Protection between Sept. 30, 1997, and June 30, 1998, about a cramming problem. Of these customers, 445 returned the survey--a 68 % response rate.

Who is responsible for the cramming problem and how should it be corrected?

- Respondents evenly distributed responsibility to the service provider, the billing aggregator, and the billing telecommunications provider.
- 98% wanted only the person whose name appears on the bill and/or the spouse to authorize items to be charged to their phone bill.
- 86% wanted to verify in writing any items that they authorized -- such as Caller ID or voice mail -- before the items can be added to their bill. 11% would be satisfied with verbal verification.
- 79% believed the offending company should rectify the problem within 30 days. Several respondents commented that since they have to pay their bills within 30 days, refunds should also be made within 30 days.
- 47% wanted credits issued to their telecommunication accounts, while 43% said they wanted refunds with interest from the responsible party.



Who should have authority to correct?

- 78% believed the PUC should have the authority to help remove unauthorized charges from their phone bill. 58% also believed the problem of unauthorized charges should be solved by rules written by the PUC.
- As a way to deter offenders, 33% wanted to prevent the offending company from operating in Texas, while 28% wanted to disallow the offending company from billing on their telecommunications bill and to make them send a separate bill. 26% wanted monetary fines against the company.

Cramming as reported by respondents

- 40% were billed one to three months for the unauthorized charges, while 52% were billed four months or more.
- 44% were billed between \$11 and \$50 for the unauthorized charges, while 25% were billed between \$51 and \$100, and 21% more than \$100.

one in four (25%) estimated the total amount of fraudulent billing between \$ 51 and \$100 and 21% of the respondents reported the total to be more than \$100.⁸

Crammers and slammers admit that they rely "heavily on consumer confusion over telephone bills to mislead consumers into paying for services that were not authorized or received."⁹ Given the number of cramming and slamming incidences reported as well as the scope of the fraud, reliance on consumer confusion as a context for fraud has been a strategic choice, indeed.

We propose that each of the following features outlined below be adopted as mandatory features on a customer's monthly telecom billing. Underlying the proposed adoption of these features are two operating principles. First, telecommunications bills (e.g., their language and format) must be *sufficiently clear in presentation and specific enough in content* that customers can accurately assess that the services for which they are being billed correspond to those they have requested and received and second, that the costs assessed for those services conform to their understanding of their price. Armed with this heretofore elusive information, customers will be able to identify services for which they were billed that were not requested, a powerful deterrent to those who would prey upon consumer confusion.

The following features should comprise an informational minimum on a customer's monthly telecom bills.

- **Current Service Recap:** Each bill should list the current identity of any service providers (particularly, interstate/intrastate calling companies), the vertical features or information services for which the customer is being charged, and any freezing mechanisms in place. This summary might appear on a "Service Recap" page.
- **Conspicuous Notice of Changes in Services or Providers:** Changes in services (i.e., additions or deletions) or the designation of new providers should be conspicuously highlighted. For example, titling a page "Changes in Services" with a larger than usual bold face font might be used expressly for this purpose. For each change highlighted, the date the change was made/went into effect, the name of the new service provider, a brief description of the services for which the customer is being billed, a provider business address, and toll-free business phone number should be provided.^{10 11}

The name and phone number of the previous provider for the service, if any, should also be provided.

⁸ The PUC mailed a questionnaire to telecommunications customers the last week of July 1998. The survey was mailed to 658 randomly selected customers in the agency's complaint database who had written to the Office of Consumer Protection between September 30, 1997 and June 30, 1998 about a cramming problem. Of these customers, 445 returned the survey, a 68% response rate. Source: "Presentation of the Public Utility Commission of Texas Cramming Survey Summary" on 28 October 1998 by Tamara Bell at the PUC public workshop on the proposed adoption of Substantive Rule 26.45: "Truth in Telecommunications Billing; Avoidance of Unauthorized Billing Charges ("Cramming")"

⁹ Source: FCC Docket CC 98-170. Paragraph 3.

¹⁰ The date that the service change was requested or a letter of agency received might also be featured. As we will state further in our comments, the name, business address, and toll-free number should be that of the biller or the reseller, rather than the aggregator or facilities-based carrier.

¹¹ Again, the phone number should be that of the biller or the reseller, rather than the aggregator or facilities-based carrier.

A brief explanation of what a consumer should do if there is a dispute with the service changes in the notice should be provided. Toll-free customer inquiry numbers for both the state Public Utility Commission and the FCC TIPS line should also be included.

- **Bill Organization by Provider:** We agree with National Association of Regulatory Utility Commissioners (NARUC) and the National Consumers League (NCL) that services should be organized by provider with a toll-free customer inquiry line for each prominently displayed.

We endorse the FCC's proposal that the bill include the name of the company doing the billing or the name of the reseller, rather than simply the contact information for the aggregator or the facilities-based carrier. Toll-free numbers provided should permit the customer to reach the entity, billing or otherwise, that has the authority to rectify a disputed charge.¹²

- **TDDRA Requirements on Services Other than Local or Long Distance:** Services not related to local or long distance, *especially, informational and non-telecommunications services* should be accompanied by the same billing disclosures as mandated by the revised Telephone Disclosure and Dispute Resolution Act. (TDDRA, 1992) ¹³ As with pay-per-call services, billing information should include "the type of service, the amount of the charge, and the date, time, and for calls billed on a time-sensitive basis, the duration of the" service.¹⁴ The rationale for this proposed disclosure format is that identified by the FCC in its implementation of the TDDRA: "(the) segregation... helps subscribers recognize... charges."¹⁵

- **Prohibition of labeling that fails to identify explicitly both the services rendered and the provider:** TCA shares the frustration of many consumers in understanding the services rendered and/or establishing the identity of the entity assessing the regularly recurring or sporadic "monthly" or "basic access" charges that appear on bills.¹⁶ We would urge the FCC to require that entities billing for services not only identify themselves clearly, but also describe the specific services for which they are billing.

¹² "... with slamming and cramming, consumers often experience considerable difficulty in contacting the entity whose charges appear on the telephone bill. This results in delayed resolution and oftentimes in the consumer's inability to correct even straightforward billing problems without the intervention of other parties such as the LEC, the state public service commission, or the (Federal Communications) Commission." Source: FCC Docket 98-170. Paragraph 33.

¹³ Source: 47 CFR U.S.C. Section 228 (c), (l)(2) and 47 CFR, Section 64.1510(a)(2)(ii), (iii). See also: PL 102-556, 106 Stat. 4181, approved October 28, 1992. See also: *Policies and Rules to Implement the Telephone Disclosure and Dispute Resolution Act*, Report and Order, 8 FCC Rcd 6885 (1993) (Pay-Per-Call Order.).

¹⁴ Source: 47 CFR, Section 64.1510 (a)(2)(ii), (iii). See also: PL 102-556, 106 Stat. 4181, approved October 28, 1992. *Policies and Rules to Implement the Telephone Disclosure and Dispute Resolution Act*, Report and Order, 8 FCC Rcd 6885 (1993) (Pay-Per-Call Order).

¹⁵ Source: FCC Docket CC 98-170. Paragraph 17.

¹⁶ Source: FCC Docket CC 98-170. Paragraph 2.

II. DENIABLE AND NON-DENIABLE CHARGES; CUSTOMER SERVICE REPS

TCA shares the FCC's concerns that "many consumers pay charges that they did not authorize solely because they erroneously perceive a risk of having their service disconnected."¹⁷ TCA is particularly concerned that the impact of this erroneous perception is disproportionately borne by those least able to sustain its financial and even, social consequences: the elderly, low-income families, and immigrants. We have heard, for example, anecdotes of elderly Texans who *assumed* that they would have their services cut off (i.e., that the charges were deniable) if they did not pay disputed nondeniable charges and so, scraped together the funds for fear that their only "link" to family, friends, caretakers, or essential services might be severed.

However, as unfortunate as this *assumption* is, far more often, customers need not *assume* that not paying nondeniable charges will result in service interruption-- *they are explicitly and fraudulently told by customer service representatives that it will*. For example, in one case, a customer noticed that a string of nearly 100 "three-way" calls were billed at \$.75 each to a telephone used, primarily, as an alternate home business line. Having never elected to use this service, she called the incumbent local exchange carrier (ILEC) to challenge the charges.¹⁸ The response of the service representative was to attribute the "three-way" calling charges to a "malfunction in the (customer's) phone" and to advise the customer to pay the charges on the bill "to keep (her) phone on." It was only after the customer persisted with customer service representative after representative after manager for nearly one week, consistently stating her categorical refusal to pay the three-way charges that they were eliminated. Conspicuously missing however, from these ensuing phone calls was any hint, much less full expression of the customer's rights, to dispute these unwanted nondeniable services *and* remain "connected." In fact, the threat- both implicitly and explicitly stated - in nearly every phone call was that service would be interrupted unless the total amount of charges, *including the disputed three-way calling charges*, was paid.¹⁹ When a necessary daily service such as local telephone service is at stake, such threats border on financial coercion and extortion.

ILECs, clearly, are not the only entities that provide misleading information to consumers. Customers who have contacted long-distance vendors, for example, have also been provided with information that was inaccurate. A customer who was "slammed" by Michigan-based LDI, Inc. for long-distance services was told by a customer representative that she had to pay the substantially higher long distance bill she received regardless of whether she had authorized any change in carrier. Failure to pay these disputed rates, the customer was assured, would lead to service interruption.²⁰ The only recourse available to her, according to the customer service representative, was for *the customer to prove she had not authorized the switch*. A credit for the difference in the daytime rates, *should the customer prove she had not made the switch*, would be available in 3- 6 months.

Again, stating her refusal to pay significantly elevated charges to a long-distance company she had not chosen, the representative told the customer that LDI- *working with the ILEC*- would have her phone service cut off immediately until she paid the bill. It was only after contacting her personal attorney who, then, directed her to the state utility commission that she was advised to request a copy of the

¹⁷ Source: FCC Docket CC 98-170. Paragraph 24.

¹⁸ The ILEC in this example was BellSouth.

¹⁹ Source: Report to the Alabama Public Service Commission. April, 1997.

²⁰ Source: Report to the Alabama Public Service Commission, February, 1997.

"letter of agency" from LDI authorizing the change and second, to contact her ILEC provider to explain that she had been slammed and request a PC freeze.²¹ She did not pay the charges to LDI and her service was not disconnected.

As time-consuming and aggravating as these incidences were, direct service providers and advocacy groups working with low-income and/or immigrant families in Texas recount experiences of what can only be termed "selective customer intimidation." In one of the more egregious cases, a customer called a third-party vendor about a series of charges that appeared on the family telephone bill. After stating the nature of his call and confirming his name, address, and the billed home telephone number, the customer service representative stated emphatically that he would have to pay the disputed charges. When the customer, again, stated that he had not requested the services, the customer service representative demanded that the customer, a resident alien with a heavy accent, give her his social security number so she could confirm that he "had a right to ask any questions about the bill." Rattled, the customer hung up. He also paid the bill.

Other customers have been threatened with immediate service interruption and aggressive collection action for challenging unauthorized nondeniable charges.²² One low-income woman reported that a customer service representative threatened to have her failure to pay a disputed nondeniable charge noted on her credit record, garnish her wages, and assess collection and court costs. *The disputed charge, a total of \$ 7, was paid by the customer for fear that failure to pay the disputed charges would somehow jeopardize her public housing benefits.* That these particularly offensive stories seem to always include a low-income or minority customer may simply be a function of the groups we consulted or a function of the demographics of Texas. However, more chillingly, they may be indicative of targeted intimidation and coercion.

- **Prominently-featured disclosure statements:** We would strongly support a mandatory "nondeniable" disclosure statement, similar to that found in pay-per-call regulations. Monthly bills should contain a "statement that carriers may not disconnect local or long distance service for nonpayment of (these) charges."²³ Because customers are actively given misinformation about their options when disputing charges, a simple statement on the bill would be extremely helpful, if not empowering to customers, in counterbalancing threats leveled. We would urge the FCC to state this consumer right simply and clearly.

- **Recognition of the role of customer service representatives:** We agree with the spirit of the FCC's assertion that "the principle of truth-in-billing extends beyond the scope of the telephone bill."²⁴ One cannot hope to address "truth-in-(telecom) billing" issues without explicitly recognizing the critical role customer service representatives often play in perpetrating what may be consumer fraud. Whether customer service representatives fail to apprise consumers of their options as a consequence of inadequate training or as a result of a deliberate corporate strategy is unclear. However, in either case, the consequences are too often the same: Too many customers are advised to pay disputed nondeniable charges, or else, face service interruption, "bad" credit documentation, collection action, or court costs. Many consumers, consequently, pay these charges. And, in nearly all of these cases, customer service representatives are the human "link" in the sequence of the fraud.

²¹ Source: *See Slamming FNPRM*, 12 FCC Rcd at 10676 n.4.

²² Sources: Conversations with staff of organizations that are members of the Texas Coalition for Human Needs, a statewide coalition of low-income service providers and advocacy organizations.

²³ Source: 47 CFR Section 64.1510(c)(1); also 47 CFR Section 54.401(b)

²⁴ Source: FCC Docket 98-170, Paragraph 34.

- **Responsibility and accountability of carriers for the actions of their customer service representatives:** We agree with the FCC's assertion that the responsibility for minimizing consumer misinformation and in extreme cases, stopping the sequence of consumer fraud, lies with the carriers. We would urge the FCC to "require carriers to train properly their customer service representatives to give accurate and non-misleading information to consumers who contact them with complaints and inquiries" and to hold the carriers responsible for the activities- including the "advice"- of their employees.²⁵
- **Criminal and civil penalties assessed to carriers and their agents who mislead consumers:** We would support the FCC's adoption of a policy in which "a carrier's provision of inaccurate and misleading information to a consumer who calls in with a question or complaint" would, in fact, "be considered an unjust and unreasonable practice in violation of Section 201(b) of the Act."²⁶

III. TRUTHFUL DISCLOSURE OF UNIVERSAL SERVICE AND ACCESS CHARGES; MISLEADING INFORMATION ON BILLING; REASONABLE CORRESPONDENCE BETWEEN THE COSTS OF SERVICES AND PRICES ASSESSED

For many Texas consumers, universal service and access charges represent the epitome of what is most problematic in current telecom billing: **undefined services billed to the customer either without explanation or couched in deception.** That customers who have contacted their long-distance providers are often told erroneously that universal service charges "come from the FCC" appears to be a relatively common experience.²⁷ Deliberately confused about the source of these charges, consumer confusion often turns into anger, exacerbated by the implicit impression or explicit communication that the "charge" stems from a "federal" source. Misinformation, particularly about the source (i.e., the FCC or more generically, "the federal government") and function of the charge is, at best, uninformed communication and at worst, a fraudulent representation of corporate billing policy.²⁸

While long-distance providers are those most typically identified as "bad actors" by the FCC, NARUC, the U.S. Congress, the National Consumers League, and others, consumer experience in Texas demonstrates that deceptive explanations of the genesis and function of these genre of charges is not exclusive to long-distance providers.²⁹ **SBC Communications, Inc. (SBC), parent company of**

²⁵ Source: FCC Docket 98-170, Paragraph 34.

²⁶ Source: 47 USC Section 201(b); *See also* FCC Docket 98-170, Paragraph 34.

²⁷ "Consumer inquiries received by the Commission... indicate that these charges are often inaccurately identified, and the description for some charges even imply that such charges have been imposed directly on consumers by federal law." Source: FCC Docket 98-170, Paragraph 25.

²⁸ "The FCC did not require companies contributing to universal service to recover their contributions directly from their customers. Each company makes a business decision about whether and how to assess customers to recover universal service costs... long distance companies are permitted to, and do, take varying approaches to recovering the costs of their contributions to the universal service funding mechanisms." Source: FCC, Common Carrier Bureau- Enforcement Division. July, 1998. "The FCC's Universal Service Support Mechanisms." Form No. CCB-FS014. Page 3.

²⁹ Source: FCC Docket 98-170, Paragraphs 4, 5, 25, 31, 32. In these paragraphs, specific references are made to the practice of "certain interstate carriers that have passed the costs of their universal service contributions directly on to consumers in the form of line item charges, stating that some of these carriers identify these charges as being mandated by the Commission even though the Commission did not mandate the method of recovery of

Southwestern Bell Telephone (SWBT), fails to account honestly for its intrastate access charges to Texas customers, choosing simply to imbed one of the nation's highest access rates.^{30 31} And, like their potential long-distance counterparts, SBC- SWBT routinely misleads consumers about the source of these charges, maintaining that Texas intrastate access rates "are set by the PUC."³²

That SBC- SWBT denies its corporate responsibility for the access rates it charges in Texas and instead, shifts blame to the PUC is particularly galling when one compares access rates charged by SBC- SWBT in Texas with those charged by the other regional bell operating companies (RBOCs) across the country. While Texas households pay approximately \$.12/minute in intrastate access rates, consumers in New York pay only \$.07, Florida consumers only \$.04, and Ohio and Illinois consumers less than \$.03/minute.³³

Ironically, even when SBC is the parent owner of another RBOC, there is no guarantee of rate parity: Texas consumers continue to be selectively and consistently gouged. In California, SBC, also the owner of Pacific Telesis (PacTel), charges California customers a mere \$.02/minute, one-sixth the cost of its intrastate access rates in Texas.^{34 35}

Beyond the ethical questions raised by SBC-SWBT's selectively consistent price gouging of its Texas customers, to what extent does the \$.12/minute rate reflect the cost of providing these services? The disparity in the cost assessed to customers and the cost to SWBT is staggering: In testimony to the PUC, SBC- SWBT provided internal data documenting that it cost the company *approximately one-half of one cent per minute* for originating and terminating intrastate telephone

such charges." (Paragraph 4) And also, "Consumer inquiries received by the Commission... indicate that these charges are often inaccurately identified, and the description for some charges even imply that such charges have been imposed directly on consumers by federal law." (Paragraph 25)

See also: NARUC, "Resolution Regarding End User Surcharges Instituted by Interstate Carriers," adopted March 4, 1998; S. 1618, 105th Congress, 2d Session (1998) Anti-Slamming Amendments Bill; National Consumers League: *The Case of the Phantom Phone Charges*, Testimony to the U.S. Senate Permanent Subcommittee on Investigations at 2 on July 23, 1998.

³⁰ "SBC operates strong, growing businesses under some of the most respected brand names in our industry- Southwestern Bell, Pacific Bell, Nevada Bell, and Cellular One." Source: SBC Communications Inc. *The SBC Value Equation: SBC Communications Inc., 1997 Annual Report*. Letter from Edward E. Whitacre, Jr., Chairman and CEO of SCB Communications, to SBC stockholders. Page 4.

³¹ "Currently, local telephone companies recover the costs of their universal service contributions through 'access charges' levied on long-distance companies. Local telephone companies, as a result, do not place separate universal service charges on bills for local telephone bills." Source: FCC, Common Carrier Bureau- Enforcement Division. July, 1998. "The FCC's Universal Service Support Mechanisms." Page 3.

³² Aware of SWBT's failure to reveal the genesis of these charges accurately, the PUC Commissioners have rightfully taken exception to this characterization publicly. Source: PUC Consumer Newsletter: Volume I, Issue 3. "It's Important Utilities Be Factually Correct." Available on the PUC's website.

³³ Source: Partnership for a Competitive Texas. "Southwestern Bell: How to Protect A Monopoly." See the Partnership's website: <http://www.competition.org>.

³⁴ SBC Communications, Inc's merger with Pacific Telesis was completed on April 1, 1997. Source: SBC Communications, Inc. *The SBC Value Equation*. Page 15.

³⁵ Source: Partnership for a Competitive Texas. "Southwestern Bell: How to Protect A Monopoly."

calls.³⁶ Thus, *SBC-SWBT charges its Texas customers twenty-three times the cost of providing a service it, then, fails to disclose or truthfully identify.*

The scope of SBC- SWBT's deception and the revenues it generates from these access rates is vast. SBC-SWBT identifies Texas as one of the two largest markets in the U.S. and claims to provide service to 80% of the more than 11 million Texas telephone lines.³⁷ SWBT's estimate that it serves *only* 80% of Texas phone lines is considered an extremely conservative figure and is much disputed.^{38 39}

Not surprisingly, many of SBC- SWBT's would-be competitors describe the more than \$.11/minute profit SBC-SWBT rakes in as a powerful "anti-competitive" tool that has also generated prodigious revenues wildly disproportionate to the costs of providing service. In their March 11, 1998 complaint to the PUC, AT & T and MCI asserted that SBC- SWBT's excessive access rates would effectively squelch long-distance competition.⁴⁰ In their complaint, AT & T and MCI requested that

(Wren:) Southwestern Bell (will) create an anticompetitive and discriminatory pricing situation in Texas (if the PUC allows SWBT) to impose this excessive charge on customers.. keep(ing) prices unnecessarily high or favor(ing) one competitor over another..... (Larsen:) *Allowing Southwestern Bell to offer long distance service before access charges are reduced would 'price squeeze' new competitors out of the market. Southwestern Bell would only pay its actual cost to connect long-distance calls, while charging competitors 24 times that cost for the same service, creating a tremendous discriminatory advantage.*⁴¹

³⁶ Source: Texas PUC Docket 14659. January 19, 1996. Testimony from SWBT in the Loehman Exhibit 5. See PUC website: <http://www.puc.state.tx.us>

³⁷ "... the dynamic growth we expect in the two largest markets in the United States— California and Texas. These two states are expected to add 8.5 million new residents and 4.4 million new jobs over the next decade, and account for 37 percent of all U.S. population growth over the next three decades... Clearly, we are going forward from a position of great strength." Source: SBC Communications, Inc. *The SBC Value Equation*. Page 3.

³⁸ In a presentation to the Texas Legislature, SWBT stated that of the 11,335,108 lines in Texas, they held 8,810, 044 or 78% of those lines and resold another 260,000 lines (2%) to competitors. No third-party verification was identified. Informal discussions with PUC staff suggests that SWBT significantly undercounted the number of Texas phone lines it served. In a relatively recent article, the PUC estimated publicly that no more than 1% of lines are served by local phone companies other than SWBT and GTE, a predominantly rural phone provider. Sources: Southwestern Bell Telephone. "Presentation to the Texas House Committee on State Affairs." December 11, 1997. Hughes, Polly Ross. "PUC Abruptly Hangs Up on Bell Plan." *Houston Chronicle* May 22, 1998.

³⁹ Americans for Competitive Telecommunications states that SWBT controls 75% of the local market and 97% of the state's local customers. Source: Americans for Competitive Telecommunications. October, 1998. *Making the Grade*. Authored by Mark Phigler. Walnut Creek, California.

⁴⁰ AT& T and MCI's complaint to the PUC was prompted by SBC-SWBT's application for long-distance entry in Texas filed March 2, 1998. Under the Texas Public Utility Regulatory Act passed in 1995, SWBT's access charges were placed under a rate ceiling, leaving SWBT the option to lower them. However, if SWBT does not voluntarily lower its access overcharge subsidies, the PUC has the authority to lower them under the "competitive safeguard" provisions of the act. The "competitive safeguard" provisions give the PUC the authority to ensure that the rates and regulations of SWBT are not unreasonably preferential, prejudicial, or discriminatory, but equitable and consistent to all competitors.

⁴¹ Source: Comments of Rian Wren, AT & T's president of the Southwest region and Neal Larsen, MCI Regional Director for Public Policy. "AT & T and MCI Call on Texas to End Southwestern Bell's Anti-Competitive Subsidy" March 11, 1998. Italics added to Larsen's comments.



August 18, 1998

Dear

In June, AT&T increased prices in Texas on our One Rate Plus service plan, a rate increase which has generated considerable negative reaction for both the company and for many of you. In fairness, we must acknowledge that AT&T mishandled the implementation of this price increase.

First, inadequate notice of the increase disturbed many customers once the new pricing appeared on their monthly bill. To make matters worse, AT&T's customer care representatives were not prepared to explain the price change. Regrettably, some initially responded to customer inquiries by citing action taken by the PUC or the Legislature. In some cases, this generated calls from concerned customers to the PUC and to individual legislators. We deeply regret this mistake and apologize for any inconvenience this may have caused you or your staff.

The following steps have been taken as a result of your concerns:

- Customer care representatives were instructed that AT&T's actions had nothing to do with the PUC or the Legislature,
- Customer care supervisors received a training session on the matter,
- AT&T gave customers an additional three months service at the rate of 10 cents per minute (the price increase was to 15 cents per minute).

It's very important to us, though, as AT&T employees and advocates that you fully understand the need for and the reasons behind this price increase. We recently wrote to you regarding access rates in Texas that are among the nation's highest. You will recall that our customers currently pay (through their long distance rates) 12 cents per minute to Southwestern Bell for long distance calls within Texas. Monopoly access charges are the reason it costs more to call from Marfa to Midland than from Marfa to Honolulu.

AT&T has shielded Texas consumers from the full burden of the 12 cents per minute fee by offering One Rate Plus at 10 cents per minute in conjunction with our national pricing plan. Regrettably, though, we can no longer lose money on in-state calls. And, even more regrettably, Texans can no longer enjoy the benefits of lower long distance prices that are available when calling between states and within virtually all other states.

In fact, residents of other states served by Southwestern Bell can enjoy 10 cents per minute rates within their states because Bell's access fees in Arkansas, Kansas, Missouri and Oklahoma are about half as much as their Texas rate of 12 cents. In California, SBC's Pacific Bell access rate is approximately 2 cents per minute.

Southwestern Bell has informed members of the interim oversight committees of its intention to seek an extension of the provision of Texas law that maintains these high access charges. We hope that the incident described above, however regrettable, serves to illustrate the inappropriateness of Bell's position. Your constituents deserve the same low prices available in other states.

We ask that you please reject Bell's request and side with your constituents by simply allowing those provisions of utility regulatory law to expire in 1999.

And again, please accept our apologies for the regrettable mishandling of this pricing change. We'll be pleased to answer any other questions you may have.

Sincerely,



Clint Smith
512-282-6542



John Salas
512-370-3016



Vaughn Aldredge
512-370-3003

And, the impact of the uneven advantage SWBT has via access rates on competition are not obstacles felt only by the telecom giants. Joining with AT & T and MCI, members of the Texas Association of Long Distance Telephone Companies (Texatel), a trade association of intermediate and small long distance and competitive local exchange telephone service providers, also requested that the PUC reduce access rates under the “competitive safeguard” provisions of the PURA.⁴² In May, 1998, Texatel members articulated their position on SWBT’s access rates to the Texas Legislature, testifying

Southwestern Bell’s access charges must be reduced to cost before, or at the same time Bell enters the long-distance markets. Otherwise, Bell will run its competitors out of business... Southwestern Bell has engaged in tactics which we call ‘death by a thousand cuts.’⁴³

According to AT & T and MCI, SBC- SWBT nets an estimated \$ 840 million per year in revenues on Texas access rates alone.⁴⁴

Is this “anti-competitive” characterization simply a marketing war among pouting, bickering telecom competitors, envious of the hidden mother lode of revenue that SWBT may, one day, carry into their market? Unfortunately not. As telecom analyst Catherine Yang explained, in *Business Week* recently:

By all accounts- including fees charged by the local phone company- access fees substantially exceed the costs they were designed to cover. At a time when the government is trying to deregulate the telecom industry, such out-of-whack charges tend to create craters in what needs to be a level playing field.⁴⁵

In fact, Texas consumers are the parties bearing the brunt of SBC-SWBT’s access rates. SBC-SWBT’s access rates have effectively “cratered” retroactively the dramatic strides most of the state’s households made in the competitive long-distance market with the break-up of AT & T. While most of the nation’s consumers continue to enjoy the benefits of long-distance competition, Texas consumers are finding even these long-standing benefits trumped by SWBT’s hidden access rates.

For example, in early 1998, AT & T introduced its “One Rate Plus” service plan which provided for a \$.10/minute rate for intrastate long-distance calls. However, in June, AT & T increased prices for this calling plan to \$.15/minute, determining that after having “shielded Texas consumers from the full burden of the 12 cents per minute fee by offering One Rate Plus at 10 cents per minute in conjunction with (its) national price plan,” “regrettably” AT & T could “no longer lose money on in-state calls.”⁴⁶ **Because of SWBT’s access rates, Texas households were uniquely excluded from reaping what has**

⁴² **Source:** Texas Association of Long-Distance Telephone Companies. (Texatel). March 11, 1998. “Texatel Joins in Challenging Southwestern Bell to Lower Access Rates Before Being Allowed in Long Distance.”

⁴³ **Source:** Texatel. May 22, 1998. “Small Companies Testify on their Difficulties Entering the Texas Local Phone Market: A Report to the House State Affairs Committee.” Austin, Texas. *See Also:* Americans for Competitive Telecommunications. “Making the Grade

⁴⁴ **Source:** Hight, Bruce. “AT & T, MCI ask for lower line-access charges.” *Austin American-Statesman* March 12, 1998.

⁴⁵ **Source:** Yang, Catherine. May 4, 1998. “The Hidden Tax in Your Phone Bill.” *Business Week*. To put SBC-SWBT’s earnings in perspective, in its quarterly financial summary report, the PUC estimated that for the twelve month period ending September 30, 1997, SWBT’s financial return on average equity was 45.73%.⁴⁵ For the period ending December 31, 1997, SWBT’s financial return on average equity was 40.20%. In comparison, the average Fortune 500 telecom corporation averaged a return on equity of only 12.7%, nearly one-third less than SWBT.

A Report To The

House State Affairs Committee

May 22, 1998

**Small Companies Testify On Their Difficulties
Entering The Texas Local Phone Market**

PARTNERSHIP FOR A
**COMPETITIVE
TEXAS**





May 18, 1998

Dear Chairman Wolens:

I am pleased to share with you the following report outlining the difficulties small businesses are having dealing with Southwestern Bell in trying to compete for local customers.

Texaltel, the Texas Association of Long Distance Telephone Carriers, is a Texas trade association of intermediate and small long distance and competitive local exchange telephone service providers.

Although Southwestern Bell says more than 170 certificates have been granted to new competing local phone companies in Texas, a certificate is just a piece of paper. Members of Texaltel have faced numerous problems and obstacles in trying to compete with Bell for local customers.

Attached is a summary of the main problems small companies face when trying to deal with Bell, such as:

- Southwestern Bell's access charges must be reduced to cost before, or at the same time Bell re-enters the long-distance markets. Otherwise, Bell will run its competitors out of business.
- Southwestern Bell is unresponsive to requests, requiring repeated calls to many people and threats of PUC complaints.
- Southwestern Bell has given competitors' customers misleading information and has engaged in a litany of "dirty tricks."
- Southwestern Bell has engaged in stalling tactics, changing its requirements, not documenting its requirements and refusing or not responding to requests, which we call "death by a thousand cuts."

We look forward to seeing you at the hearing on the 22nd. Our president Brady Buckley will be testifying. Thank you for taking the time to review the following information, and if I can be of any assistance to you, please don't hesitate to contact me at 512-320-0430.

Sincerely,

Charles Land
Executive Director

SMALL LOCAL PHONE COMPANIES TELL THE REAL STORY ABOUT COMPETING IN TEXAS

Southwestern Bell says more than 170 certificates have been granted to new competing local phone companies in Texas. But a certificate is just a piece of paper. Here is a summary of testimony before a recent Public Utility Commission hearing in which small companies say what really happens when they take that piece of paper and try to compete for local phone customers.

1. Southwestern Bell has given competitors' customers misleading information.

First, why is Southwestern Bell talking to its competitors' customers at all? Worse, why is it telling them things like they'll have to change their telephone numbers if they switch from Southwestern Bell's service to a competitor's? That's not true, and Southwestern Bell knows it. (See Tab 1.)

2. Southwestern Bell has delayed providing competitors what they need until the Public Utility Commission intervenes.

Competing companies need to be able to initiate and terminate calls to Southwestern Bell customers, but the monopoly has delayed the competitors' ability to do so. These types of problems have been fixed only because the PUC has forced Southwestern Bell to fix them. (See Tab 2.)

3. Southwestern Bell doesn't treat all competing companies equally.

The monopoly provides some needed capabilities for a few competitors but not for others. Small companies have been forced to take Southwestern Bell to court and fight the enormous, wealthy monopoly in protracted legal battles they can't afford. (See Tab 3.)

4. Southwestern Bell has prevented competitors from connecting to its network.

When a competitor wants to provide local service, it must connect to Southwestern Bell's existing network. But Southwestern Bell has prevented that interconnection, partly by failing to provide sufficient capacity for competitors' calls. (See Tab 4.)

5. Southwestern Bell simply ignores competitors' requests.

When competing companies have concerns they wish to express to Southwestern Bell, they call. They fax. They mail. They e-mail. And sometimes Southwestern Bell just doesn't respond. (See Tab 5.)

6. Southwestern Bell demands information from competitors but then does nothing.

Competitors have to tell Southwestern Bell how much capacity they'll need on Southwestern Bell's network. That way, Southwestern Bell can provide the capacity to complete the competitors' calls. But after receiving that information, Southwestern Bell does nothing with it and fails to provide sufficient capacity. (See Tab 6.)

7. Southwestern Bell's customers lose Call Notes if they switch to a competitor.

Call Notes is a subsidiary of Southwestern Bell. If a Southwestern Bell customer changes their service to a competitor, somehow their Call Notes service is disconnected. The customer then has to contact Call Notes to reconnect. *(See Tab 7.)*

8. Southwestern Bell refuses to allow competitors to offer improved 911 service.

Some competing companies have tried to provide better emergency calling services to their customers. But they've been blocked by Southwestern Bell's refusal to provide facilities. *(See Tab 8.)*

9. Southwestern Bell publishes incorrect customer addresses.

The monopoly's process for verifying directory listings is cumbersome and results in errors. *(See Tab 9.)*

10. Southwestern Bell treats its own customers better than it treats its competitors' customers.

Whether it's access to so-called "vanity" numbers or training on support systems or delays on maintenance calls, competitors' customers always get the short end of the stick. *(See Tab 10.)*

11. Southwestern Bell uses legal barriers to keep small companies from competing.

The state's largest phone monopoly appeals PUC rulings in court. Small companies are unable to match Southwestern Bell's financial and legal muscle in the courtroom, and their resources are drained in legal battles instead of being invested in the marketplace. *(See Tab 11.)*

12. Southwestern Bell has decided to play by its own rules.

When a competitor's customer calls a Southwestern Bell customer, the competitor pays to complete the call, and vice versa. But Southwestern Bell has decided unilaterally not to pay competitors for certain calls. *(See Tab 12.)*

become a traditional benefit “of lower long distance prices...(widely) available” since the mid-1980s.⁴⁷ While AT & T is, certainly, still able to (and does) provide long-distance services in Texas, the minimum price it and all other providers can charge (and still generate revenue) is controlled by SWBT, thereby “cratering” meaningful consumer *choice* among competitors, as well as price.

As with PacBell access rates, AT & T correctly points out that “residents of other states served by Southwestern Bell (could) enjoy (the) 10 cents per minute rates within their states because Bell’s access fees in Arkansas, Kansas, Missouri, and Oklahoma are about half as much as their Texas rate of 12 cents.”⁴⁸ Further, when AT & T’s prices went up to \$.15/minute, most customers did not call SWBT asking for a reduction in access rates, instead, they contacted AT & T to complain and some to switch to another provider.⁴⁹

And, unfortunately, gouging consumers on intrastate access rates does not comprise SBC-SWBT’s “customer relations” strategy in Texas. SBC-SWBT is also charging extraordinarily high rates for vertical services, such as call waiting and caller I.D., relative to the cost of providing these services. And, should SBC-SWBT succeed in its latest efforts at the PUC, its already astronomical profit margin will increase. In October, 1997, SWBT asked the PUC for permission “to boost residential phone bills by as much as \$10.80 annually for (call waiting and caller ID) services and ... also requested permission to later (sic) levy a 10% price increase on a number of other optional services, such as Call Forwarding and Call Return.”⁵⁰ According to an “outside study of Bell’s profitability... services such as Caller ID and Call Waiting typically have profit margins of more than 70%.” In 1994 in the Dallas-Fort Worth area *alone*, the study found that SWBT took in \$76.2 million in revenue from these optional services “at a cost to the company of only \$8.8 million.”⁵¹

Cynically, about the time SBC-SWBT went to the PUC for an increase over its 70% profit margin, SBC laid out its corporate goal for vertical services: To saturate Texas and in several languages. In its stockholder report, dated October, 1997, SBC describes its “simple” strategy:

The more services a customer has on one telephone line, the greater the revenue produced by that line. As we increase our access lines, we are selling more services on those lines. In fact, Southwestern Bell leads the industry with an average of 2.27 vertical features per line... In Caller ID, SBC has an industry-leading residential market penetration of 47% in its Southwestern Bell markets... Diversity marketing paractices will help: for example,

⁴⁶ Source: Letter to members of the Texas Legislature from AT & T on August 18, 1998 in response to consumer complaints about AT & T’s five-cent increase in its per-minute pricing for consumers using the One Rate Plus service plan in Texas.

⁴⁷ Source: AT & T Letter, Texas Legislature: August 18, 1998.

⁴⁸ Source: AT & T Letter, Texas Legislature: August 18, 1998.

⁴⁹ It was, in fact, the “considerable negative reaction” to the five-cents increase that lead consumers to contact their state legislators, therefore, prompting AT & T to write the referenced letter to members of the Texas Legislature.

⁵⁰ Source: Oppel, Richard A. . “SW Bell seeks 10% hike on phone options Texas regulators will review proposal.” *The Dallas Morning News* October 1, 1997.

⁵¹ The source of the figures referenced, the outside study, was turned over to federal antitrust regulators in 1996 as part of their review of the acquisition of Pacific Telesis Group by Bell’s parent company, SBC Communications, Inc. Source: Oppel, Richard A. “SW Bell seeks hike.”

Southwestern Bell and Pacific Bell employees communicate with customers in eight languages.”⁵²

All puns aside, the current “disconnect” between the costs of providing services and the prices assessed to Texas consumers is startling. That SBC- SWBT approached the PUC with a request to raise its rates and therefore, its profit margins just as it embarked on its culturally-diverse “saturation strategy” makes one feel queasy on behalf of Texas consumers.

To appreciate fully the particularly egregious nature of SBC-SWBT’s unrestrained price gouging and anti-competitive behavior, one must place access rates and vertical services price increases in the context of the state’s telecommunications market. Because of what Texatel vividly describes as its ongoing “death by a thousand cuts campaign,” a strategy to impede, hinder, and block new local phone market entrants and other competitors, SBC- SWBT continues to enjoy its traditional monopoly on local services in Texas.⁵³ However, its corporate efforts to lock out competitors in the local market has not distracted SBC-SWBT from simultaneously waging a pitch battle to enter the long-distance market, as well.⁵⁴

In the crosshairs of these corporate efforts to cement local market share and enter the long-distance market in Texas sits the unsuspecting, locally captive residential Texas telecom customer.⁵⁵ In many ways, Texas households are taking it on the chin twice. Typically, their long-distance providers are passing through their corporate universal service contributions without explanation. For those who ask about the nature of the fees, most are actively misinformed, lead to believe that the line item fee comes “from the FCC.” Locally, SWBT price gouges these same families on intrastate access rates, blaming their extremely lucrative profits on the PUC, and seeking increases in rates for the vertical services it heavily markets.

- **Disclosure language of universal services charges:** We urge the FCC to require that long-distance “carriers seek(ing) to pass on all or part of their universal service contributions to

⁵² Source: SBC Communications, Inc. *The SBC Value Equation*. Page 12.

⁵³ “Southwestern Bell has engaged in stalling tactics, changing its requirements, not documenting its requirements and refusing or not responding to requests... Southwestern Bell has prevented competitors from connecting to its network. When a competitor wants to provide local service, it must connect to Southwestern Bell’s existing network. But Southwestern Bell has prevented that interconnection, partly by failing to provide sufficient capacity for competitors’ calls.” Source: Texatel. May 22, 1998. “Small Companies Testify on their Difficulties Entering the Texas Local Phone Market: A Report to the House State Affairs Committee.” Austin, Texas. See also: Footnotes 38, 39.

⁵⁴ “The PUC said ‘not yet’ to SWBT’s application for long-distance approval in Texas in May, determining the Bell company had not fully complied with the Act’s requirements for opening its local market to competitors. The Commission determined SWBT must take concrete steps to improve its relationships with companies who are having difficulties doing business with the incumbent carrier. SWBT was told it must change its corporate attitude and begin to treat its competitors like customers... Earlier this year, SWBT attempted to bypass local competition rules by appealing five interconnection agreements arbitrated by the PUC. The company challenged the PUC’s pricing for competitors to lease its network elements and challenged the rules on interconnection and unbundling provisions. A federal court in Austin rejected SWBT’s arguments in September, 1998 and upheld the PUC’s plan for local competition.” Source: Americans for Competitive Telecommunications. *Making the Grade*. Page 60: “Texas: Issues on the Line.” Of course, it was SBC- SWBT that filed the case challenging the Telecom Act of 1996 as containing provisions violating the “bill of attainder” provisions of the U.S. Constitution.

⁵⁵ SBC estimates that “long distance in our service territory is about a \$13 billion opportunity. Assuming a 15% to 20% penetration rate- which other companies have achieved- our revenue opportunity from long distance could be

\$ 1.5 billion to \$ 2 billion annually.” Source: SBC Communications, Inc. *The SBC Value Equation*. Page 13.

their customers ... include complete and truthful information regarding the contribution amount... (and) provide full disclosure of the nature and amount of these costs.”^{56 57} Companies that continue to imply or state that universal service fees are being assessed by the FCC should face stiff penalties as such explanations are not only deceptive, but also anti-competitive.⁵⁸

- **Disclosure of intrastate access rates:** Because the state’s households are routinely subjected to access rate subterfuge by SBC, justice requires that its Texas subsidiary, SWBT, also disclose its imbedded \$.12/minute origination and termination fee on intrastate calls. Such a disclosure would provide Texas consumers with an understanding of the unique price-gouging to which they are subjected. As the FCC accurately pointed out, the obscured nature of these costs make it extremely difficult for consumers first, to identify the source of these rates and in turn, to locate alternative providers that may offer more affordable billing for these services, should such alternatives exist.⁵⁹

However, to the extent that SWBT’s access rates function to hinder provider competition and consumer choice- both for local and long-distance services, we would urge the FCC to take all available action under Section 201(b) of the Telecom Act.

As with long-distance providers, SWBT should face the certainty of stiff penalties should its customer service representatives imply or state to consumers that its high access rates are set by the PUC.

- **Truth in rates as a hallmark of telephone billing:** We would urge the FCC to pursue carriers, *both long-distance and local*, that bill a consumer for an amount identified as attributable to a particular cost while charging more than the actual cost incurred as provided for under Section 201(b) of the Telecom Act..⁶⁰

We understand that telecom companies are not non-profit entities and further, that those who manage these companies have legal fiduciary obligations to their shareholders. **However, reasonable levels of profit are, in fact, “reasonable,” vastly preferable to the currently unregulated system of local market abuse to which Texas customers are notably subjected. The issue of “reasonable” profits takes on special resonance for the state’s customers in the absence of viable local competition, the emergence of which is actively stymied by SBC.** We believe that SBC- SWBT’s corporate choice to charge households in Texas \$.12/minute for a intrastate access that cost less than one-half a cent to provide as well as the price gouging of consumers on vertical services is “unreasonable” as established in Section 201(b), Telecom Act of 1996.⁶¹

V. SAFE HARBOR LANGUAGE

Because consumer irritation, agitation, hostility, and fraud has been one of the more prominent features of the consumer experience post-Telecom, we can sympathize with the request of providers for “safe harbor language” that “ensures (providers) that they are meeting their obligation to provide

⁵⁶ Source: FCC Docket 98-170, Paragraph 26.

⁵⁷ Source: FCC Docket 98-170, Paragraph 32.

⁵⁸ “Consumers (are)... less likely to compare pricing” when they are told that rates are set by the government. Source: FCC Docket 98-170, Paragraph 31.

⁶⁰ Source: FCC Docket 98-170, Paragraph 31.

⁶¹ SBC’s August, 1998 proposal to the California PUC to raise directory assistance rates from \$.25 up to \$ 1.10 for PacBell customers is similarly another example of SBC’s “unreasonable” pricing for service relative to their cost to provide. Sources: Fikes, Bradley J. “PacBell Hiking Directory Assistance Calls from .25 to \$ 1.10” in *North County Times* August 18, 1998 or Solomon, Deborah. “Higher Phone Bills on the Line for Some” in *San Diego Union-Tribune* August 15, 1998.

truthful and accurate information to subscribers.”⁶² The request for such language appears, on its face, reasonable.

However, we would urge the FCC to place strict limits on the extent to which providers are “protected” under “safe harbor” language: Carriers should be protected only to the extent that questions, issues, complaints, or lawsuits arise from the exclusive use of printed materials. Simply having safe harbor language printed on service billing should not be a blanket guarantee of protection for the provider if, for example, the carrier’s service representatives are not providing accurate information to a consumer. To the extent that “safe harbor” language featured on the bill contrasts with information provided by a carrier’s customer service representative to the customer, the presumption should be that the provider is *not* protected by having simply printed “safe harbor” language on the bill.

CONCLUSION:

On behalf of the 150,000 Texas households that financially support TCA, we wish to thank the FCC for the opportunity to provide comments on the CC Docket 98-170. We urge the FCC to take the action necessary to yield to Texas households not only comprehensible telecom billing, but also the full measure of the benefits of telecom competition that currently elude the state’s households.

Comments submitted by:
Sheila Holbrook-White, Executive Director

9 November, 1998
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